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DEPARTMENT OF JUSTICE
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August 29, 1997

Paul Meadowbrook
Attorney at Law
285 Liberty St., Ste. 360
Salem, OR 97301

Re: Petition for Public Records Disclosure:
Oregon State Lottery Records, Department of State Police Records, and Secretary of State Records

Dear Mr. Meadowbrook:

This letter is the Attorney General's order on your petition for disclosure of records under ORS 192.410 to 192.505.[1/] The petition, which we received on August 22, 1997, asks the Attorney General to direct the Oregon State Lottery, the Oregon Department of State Police and the Secretary of State to produce a copy of records described in the petition, a copy of which is attached hereto.

With respect to the item of April 11, 1997, Michael Greenfield, Deputy Secretary of State, informs us that no such records exist. The Attorney General cannot order disclosure of records that do not exist. Accordingly, we deny the petition with respect to this item.

With respect to all of the remaining items, we are informed by Lee Moore, Deputy Director of the Oregon State Lottery, and Lieutenant Tim Steiner of the Oregon Department of State Police that they have not denied Mr. Caputo's request for records, except with regard to written legal advice from the Department of Justice dated February 11, 1997.[2/]

[1/] The petition was filed on behalf of your client, Stephen H. Caputo.

[2/] The records requests identified in your petition that were directed to Assistant Attorney General Rudolph Westerband sought records of the Oregon State Lottery, not records as to which the

(continued...)

Absent a denial by the agency, the Attorney General has no authority to order disclosure of records. *See* ORS 192.450(1). Nevertheless, Mr. Moore and Lt. Steiner inform us that the Lottery and the State Police will disclose to you all of the requested records they have, except the above-referred-to written legal advice from the Department of Justice.

We have reviewed the above-referred-to written legal advice and conclude that it is an attorney-client privileged communication under ORS 40.225 and therefore exempt from disclosure under ORS 192.502(8). Accordingly, we deny your petition as to the written legal advice.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

DS:RSW:AV:clr/MEADOWBR.PRO
Enclosure

[2/] (...continued)
Department of Justice is the records custodian. *See* ORS 192.410(1)(b). Mr. Westerband has been reviewing the records on behalf of the Lottery in order to respond to your requests and has not denied those requests, except as to confidential written advice from the Department of Justice to its clients.